

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1145

Introduced by Jensen, 20; Kruse, 13

Read first time January 16, 2002

Committee: Rereferred to Revenue

A BILL

1 FOR AN ACT relating to appropriations; to amend section 53-160,
2 Reissue Revised Statutes of Nebraska, and section 53-162,
3 Revised Statutes Supplement, 2001; to provide funding for
4 substance abuse treatment; to make findings; to declare
5 intent; to change provisions relating to liquor tax
6 rates; to harmonize provisions; to provide an operative
7 date; to repeal the original sections; and to declare an
8 emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds and declares that:

2 (1) Substance abuse treatment is a proven public safety
3 and health measure;

4 (2) Community safety and health are promoted and taxpayer
5 dollars saved when persons with substance abuse problems are
6 provided adequate treatment; and

7 (3) The cost attributed to substance abuse is difficult
8 to accurately determine due to the large impact on family,
9 workplace, and society which results from a person with substance
10 abuse problems.

11 Sec. 2. It is the intent of the Legislature to:

12 (1) Provide funding for substance abuse treatment
13 opportunities;

14 (2) Halt the wasteful expenditure of tax dollars to
15 punish persons with substance abuse problems through repeated
16 prosecution and incarceration without addressing the underlying
17 substance abuse problem; and

18 (3) Enhance the public health and safety of all
19 Nebraskans by allowing more opportunities to treat persons with
20 substance abuse problems.

21 Sec. 3. (1) The Substance Abuse Treatment Fund is
22 created. The fund shall consist of money allocated to the fund
23 pursuant to sections 53-160 and 53-162, any money appropriated by
24 the Legislature, and any gifts, bequests, or other contributions
25 provided to the fund from any public or private entities.

26 (2) The interest from the money allocated pursuant to
27 sections 53-160 and 53-162, any money provided by the Legislature,
28 and any other gifts, bequests, or other contributions provided to

1 the fund shall be divided equally and distributed to the following
2 substance abuse treatment programs: (a) The Nebraska Correctional
3 Treatment Center Program and (b) substance abuse treatment programs
4 funded by the Division of Mental Health, Substance Abuse, and
5 Addiction Services of the Department of Health and Human Services.

6 (3) Any money in the Substance Abuse Treatment Fund
7 available for investment shall be invested by the state investment
8 officer pursuant to the Nebraska Capital Expansion Act and the
9 Nebraska State Funds Investment Act.

10 Sec. 4. Section 53-160, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 53-160. (1) For the purpose of raising revenue, a tax is
13 imposed upon the privilege of engaging in business as a
14 manufacturer or a wholesaler at a rate of ~~twenty-three~~ thirty-seven
15 cents per gallon on all beer; ~~seventy-five~~ one dollar and
16 twenty-five cents per gallon for wine containing not more than
17 fourteen percent but not less than five-tenths of one percent of
18 alcohol by volume and ~~one dollar and thirty-five~~ two dollars and
19 twenty-five cents per gallon for wines and other dilute alcoholic
20 beverages containing more than fourteen percent of alcohol by
21 volume, except for wines produced in farm wineries; ~~five~~ ten cents
22 per gallon for wine produced in farm wineries; and ~~three dollars~~
23 four dollars and fifty-five cents per gallon on alcohol and spirits
24 manufactured and sold by such manufacturer or shipped for sale in
25 this state by such wholesaler in the course of such business. The
26 gallonage tax imposed by this subsection shall be imposed only on
27 alcoholic liquor upon which a federal excise tax is imposed.

28 (2) Manufacturers or wholesalers of alcoholic liquor

1 shall be exempt from the payment of the gallonage tax on such
2 alcoholic liquor upon satisfactory proof, including bills of lading
3 furnished to the commission by affidavit or otherwise as the
4 commission may require, that such alcoholic liquor was manufactured
5 in this state but shipped out of the state for sale and consumption
6 outside this state.

7 (3) Dry wines or fortified wines manufactured or shipped
8 into this state solely and exclusively for sacramental purposes and
9 uses shall not be subject to the gallonage tax.

10 (4) The gallonage tax shall not be imposed upon any
11 alcoholic liquor, whether manufactured in or shipped into this
12 state, when sold to a licensed nonbeverage user for use in the
13 manufacture of any of the following when such products are unfit
14 for beverage purposes: Patent and proprietary medicines and
15 medicinal, antiseptic, and toilet preparations; flavoring extracts,
16 syrups, food products, and confections or candy; scientific,
17 industrial, and chemical products, except denatured alcohol; or
18 products for scientific, chemical, experimental, or mechanical
19 purposes.

20 (5) The gallonage tax shall not be imposed upon the
21 privilege of engaging in any business in interstate commerce or
22 otherwise, which business may not, under the Constitution and
23 statutes of the United States, be made the subject of taxation by
24 this state.

25 (6) The gallonage tax shall be in addition to all other
26 occupation or privilege taxes imposed by this state or by any
27 municipal corporation or political subdivision thereof.

28 (7) The commission shall collect the gallonage tax and

1 shall account for and remit to the State Treasurer at least once
2 each week all money collected pursuant to this section. If any
3 alcoholic liquor manufactured in or shipped into this state is sold
4 to a licensed manufacturer or wholesaler of this state to be used
5 solely as an ingredient in the manufacture of any beverage for
6 human consumption, the tax imposed upon such manufacturer or
7 wholesaler shall be reduced by the amount of the taxes which have
8 been paid as to such alcoholic liquor so used under the Nebraska
9 Liquor Control Act.

10 (8) The State Treasurer shall credit the net proceeds of
11 all revenue arising under this section shall be credited to the
12 General Fund and the Substance Abuse Treatment Fund as follows:

13 (a) Beer -- twenty-three cents per gallon to the General
14 Fund and fourteen cents per gallon to the Substance Abuse Treatment
15 Fund;

16 (b) Wine produced at farm wineries -- five cents per
17 gallon to the General Fund and five cents per gallon to the
18 Substance Abuse Treatment Fund;

19 (c) Other wine containing not more than fourteen percent
20 but not less than five-tenths of one percent of alcohol by volume
21 -- seventy-five cents per gallon to the General Fund and fifty
22 cents per gallon to the Substance Abuse Treatment Fund;

23 (d) Other wine and dilute alcoholic beverages containing
24 more than fourteen percent of alcohol by volume -- one dollar and
25 thirty-five cents per gallon to the General Fund and ninety cents
26 per gallon to the Substance Abuse Treatment Fund; and

27 (e) Alcohol and spirits manufactured and sold by such
28 manufacturer or shipped for sale in this state by a wholesaler --

1 three dollars per gallon to the General Fund and one dollar and
2 fifty-five cents per gallon to the Substance Abuse Treatment Fund.

3 Sec. 5. Section 53-162, Revised Statutes Supplement,
4 2001, is amended to read:

5 53-162. For the purpose of raising revenue, a tax is
6 imposed upon persons holding a shipping license issued pursuant to
7 subsection (4) of section 53-123.15 who ship alcoholic liquor to
8 individuals pursuant to section 53-192 and for which the required
9 taxes in the state of purchase or this state have not been paid.
10 The tax, if due, shall be paid by the holder of the shipping
11 license issued pursuant to subsection (4) of section 53-123.15.
12 The amount of the tax shall be imposed as provided in section
13 53-160. The tax shall be collected by the commission, except that
14 the tax shall not be due until December 31 of the year in which the
15 purchase was made. The tax shall be delinquent if unpaid within
16 twenty-five days after December 31. The revenue from the tax shall
17 be credited to the General Fund and the Substance Abuse Treatment
18 Fund pursuant to subsection (8) of section 53-160. The commission
19 shall adopt and promulgate rules and regulations to carry out this
20 section.

21 Sec. 6. This act becomes operative on July 1, 2002.

22 Sec. 7. Original section 53-160, Reissue Revised
23 Statutes of Nebraska, and section 53-162, Revised Statutes
24 Supplement, 2001, are repealed.

25 Sec. 8. Since an emergency exists, this act takes effect
26 when passed and approved according to law.